

Thomas Cook (I) Limited

Decision Outcome: In **favour** of the taxpayer

Industry: Tour Operator, Foreign Exchange and Travel Agent

Category: Receipt of Service Fees and Payment of Counting Charges

Summary of decision:

- The appeal is made by the revenue against the order of CIT(Appeals), for non charging of service fee from the AEs which the tax payer charged from the Non AEs
- The taxpayer argued that it is not paying any 'Counting Charges' on the currency exported to the AEs which it is paying to the other Non AEs.
- Had it paid the 'Counting Charges', the net impact on the profit and loss would have been a net loss considering the set off between 'Counting Charges' and 'Service Fees'
- The taxpayer also proved that above 'net loss' by obtaining the Internal CUPs from HSBC and Travelex
- The ITAT confirms with the decision of CIT(Appeals) and arguments of the tax payer and the ground raised by the revenue stands dismissed

TransPrice Comments:

It has been held by the ITAT in many cases that every transaction needs to be benchmarked separately. By pronouncing this decision, a question may arise that if a company's purchases are more than sales, does it make enough justification not to book the sales and purchases and provide services and receive services free of cost.

New Additional DRP at Delhi & Mumbai

The Central Board of Direct Taxes sets up a new Dispute Resolution Panel (DRP-III) at Mumbai & Delhi, keeping in mind the increasing number of Transfer Pricing Cases

The pending cases would be reallocated among the 3 DRPs